

Senate Engrossed

State of Arizona
Senate
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 82
SENATE BILL 1408

AN ACT

AMENDING SECTION 49-457, ARIZONA REVISED STATUTES; RELATING TO STATE AIR POLLUTION CONTROL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 49-457, Arizona Revised Statutes, is amended to
3 read:

4 49-457. Agricultural best management practices committee;
5 members; powers; permits; definitions

6 A. A best management practices committee for regulated agricultural
7 activities is established.

8 B. The committee shall consist of:

9 1. The director of environmental quality or the director's designee.

10 2. The director of the Arizona department of agriculture or the
11 director's designee.

12 3. The dean of the college of agriculture of the university of Arizona
13 or the dean's designee.

14 4. The state director of the United States natural resources
15 conservation service or the director's designee.

16 5. One person actively engaged in the production of citrus.

17 6. One person actively engaged in the production of vegetables.

18 7. One person actively engaged in the production of cotton.

19 8. One person actively engaged in the production of alfalfa.

20 9. One person actively engaged in the production of grain.

21 10. One soil taxonomist from the university of Arizona college of
22 agriculture.

23 11. One person actively engaged in the operation of a beef cattle feed
24 lot.

25 12. One person actively engaged in the operation of a dairy.

26 13. One person actively engaged in the operation of a poultry facility.

27 14. One person actively engaged in the operation of a swine facility.

28 15. One person who is employed by a county air quality department or
29 agency.

30 C. The governor shall appoint the members designated pursuant to
31 subsection B, paragraphs 5 through 15 of this section for a term of six
32 years. Members may be reappointed. Members are not entitled to compensation
33 for their services but are entitled to receive reimbursement of expenses
34 pursuant to title 38, chapter 4, article 2.

35 D. The committee shall elect a chairman from the appointed members to
36 serve a two year term.

37 E. The committee shall meet at the call of the chairman or at the
38 request of a majority of the appointed members.

39 F. The department of environmental quality, the Arizona department of
40 agriculture and the college of agriculture of the university of Arizona shall
41 cooperate with and provide technical assistance and any necessary information
42 to the committee. The department of environmental quality shall provide the
43 necessary staff support and meeting facilities for the committee.

44 G. A person who commences a regulated agricultural activity after
45 December 31, 2000 shall comply with the general permit within eighteen months
46 of commencing the activity.

1 H. The committee shall adopt, by rule, an agricultural general permit
2 specifying best management practices for regulated agricultural activities to
3 reduce PM-10 particulate emissions. A person who is subject to an
4 agricultural general permit pursuant to this section is not subject to a
5 permit issued pursuant to section 49-426 except as provided in subsection K
6 of this section. The committee shall adopt by rule a list of best management
7 practices, at least two of which shall be used to demonstrate compliance with
8 applicable provisions of the general permit. Best management practices may
9 vary within the regulated area, according to regional or geographical
10 conditions or cropping patterns.

11 I. If the director determines that a person who is engaged in a
12 regulated activity is not in compliance with the general permit, and that
13 person has not previously been subject to a compliance order issued pursuant
14 to this section, the director may serve on the person by certified mail an
15 order requiring compliance with the general permit and notifying the person
16 of the opportunity for a hearing pursuant to title 41, chapter 6, article 10.
17 The order shall state with reasonable particularity the nature of the
18 noncompliance and shall specify that the person has a period that the
19 director determines is reasonable, but is not less than six months, to submit
20 a plan to the supervisors of the natural resource conservation district in
21 which the person engages in the regulated activity that specifies the best
22 management practices from among those adopted in rule pursuant to subsection
23 H of this section that the person will use to comply with the general permit.

24 J. If the director determines that a person who is engaged in a
25 regulated activity is not in compliance with the general permit, and that
26 person has previously submitted a plan pursuant to subsection I of this
27 section, the director may serve on the person by certified mail an order
28 requiring compliance with the general permit and notifying the person of the
29 opportunity for a hearing pursuant to title 41, chapter 6, article 10. The
30 order shall state with reasonable particularity the nature of the
31 noncompliance and shall specify that the person has a period that the
32 director determines is reasonable, but is not less than six months, to submit
33 a plan to the department that specifies the best management practices from
34 among those adopted in rule pursuant to subsection H of this section that the
35 person will use to comply with the general permit.

36 K. If a person fails to comply with the plan submitted pursuant to
37 subsection J of this section, the director may revoke the agricultural
38 general permit for that person and require that the person obtain an
39 individual permit pursuant to section 49-426. A revocation becomes effective
40 after the director has provided the person with notice and an opportunity for
41 a hearing pursuant to title 41, chapter 6, article 10.

42 L. The committee may periodically reexamine, evaluate and modify best
43 management practices. Any approved modifications shall be submitted to the
44 United States environmental protection agency as a revision to the applicable
45 implementation plan.

1 M. The committee shall develop and commence an education program. The
2 education program shall be conducted by the director or the director's
3 designee or designees.

4 N. A best management practice adopted pursuant to this section does
5 not affect any applicable requirements in an applicable implementation plan
6 or any other applicable requirements of the clean air act, including section
7 110(l) of the act (42 United States Code section 7410(l)).

8 O. For the purposes of this section, unless the context otherwise
9 requires:

10 1. "Agricultural general permit" means best management practices that:

11 (a) Reduce PM-10 particulate emissions from tillage practices and from
12 harvesting on a commercial farm.

13 (b) Reduce PM-10 particulate emissions from those areas of a
14 commercial farm that are not normally in crop production.

15 (c) Reduce PM-10 particulate emissions from those areas of a
16 commercial farm that are normally in crop production including prior to plant
17 emergence and when the land is not in crop production.

18 (d) Reduce PM-10 particulate emissions from the activities of a dairy,
19 a beef cattle feed lot, a poultry facility or a swine facility, including
20 practices relating to the following:

21 (i) Unpaved access connections.

22 (ii) Unpaved roads or feed lanes.

23 (iii) Animal waste handling and transporting.

24 (iv) Arenas, corrals and pens.

25 (e) ONLY IN THOSE REGULATED AREAS THAT ARE ESTABLISHED AFTER JUNE 1,
26 2009, AS PRESCRIBED IN PARAGRAPH 6, SUBDIVISION (c) OF THIS SUBSECTION,
27 REDUCE PM-10 PARTICULATE EMISSIONS FROM THE ACTIVITIES OF AN IRRIGATION
28 DISTRICT GOVERNED BY TITLE 48, CHAPTER 19 AND AFFECTING THOSE LANDS AND
29 FACILITIES THAT ARE UNDER THE JURISDICTION AND CONTROL OF THE DISTRICT,
30 INCLUDING PRACTICES RELATING TO THE FOLLOWING:

31 (i) UNPAVED OPERATION AND MAINTENANCE ROADS.

32 (ii) CANALS.

33 (iii) UNPAVED UTILITY ACCESS ROADS.

34 2. "Applicable implementation plan" means that term as defined in 42
35 United States Code section 7601(q).

36 3. "Best management practices" means techniques that are verified by
37 scientific research and that on a case by case basis are practical,
38 economically feasible and effective in reducing PM-10 particulate emissions
39 from a regulated agricultural activity.

40 4. "Maricopa PM-10 particulate nonattainment area" means the Phoenix
41 planning area as set forth in 40 Code of Federal Regulations section 81.303.

42 5. "Regulated agricultural activities" means:

43 (a) Commercial farming practices that may produce PM-10 particulate
44 emissions within the regulated area, including activities of a dairy, a beef
45 cattle feed lot, a poultry facility and a swine facility.

1 (b) ONLY IN THOSE REGULATED AREAS THAT ARE ESTABLISHED AFTER JUNE 1,
2 2009, AS PRESCRIBED IN PARAGRAPH 6, SUBDIVISION (c) OF THIS SUBSECTION,
3 ACTIVITIES OF AN IRRIGATION DISTRICT THAT IS GOVERNED BY TITLE 48, CHAPTER
4 19.

5 6. "Regulated area" means any of the following:

6 (a) The Maricopa PM-10 particulate nonattainment area.

7 (b) Any portion of area A that is located in a county with a
8 population of two million or more persons.

9 (c) Any other PM-10 particulate nonattainment area established in this
10 state on or after June 1, 2009.

APPROVED BY THE GOVERNOR APRIL 16, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 19, 2010.